

Section 7.01 Alcohol Licensing and Control

7.01(A) Title/Purpose

The title of this Section is Alcohol Licensing and Control. The purpose of this Section is to regulate the sale and use of alcohol beverages within the Town and to promote the good order of the Town for its commercial benefit and the health, safety, and welfare of the public.

7.01(B) Authority

This Section is enacted pursuant to Wis. Stat. § 125.10, and the Town's general police power.

7.01(C) Licenses Required

No person, except as authorized by this Section and Ch. 125, Wis. Stat., the provisions of which are hereby adopted and made part of this Section by reference, shall within the Town serve, sell, distribute, vend offer or keep for sale at retail or wholesale, deal or traffic in or engage in any other activity for which a license or permit is authorized under this Section or Ch. 125, Wis. Stat.

7.01(D) Definitions

The terms used in this Section shall have the meanings contained in Wis. Stat. § 125.02, "Statutes" in this Section shall mean the Wisconsin Statutes, Laws of 2005-2006, and as amended hereafter.

7.01(E) License Classes and Fees

There shall be the following classes of licenses which, when issued by the Town Clerk under authority of the Town Board after the payment of the appropriate fee hereinafter specified, shall permit the holder to sell, deal, or traffic in alcohol beverages as provided in Ch. 125, Wis. Stat. Except as otherwise provided in this Section, the full license fee shall be charged for the whole or fraction of any year.

(1) Class "A" license for retail sale of fermented malt beverages for consumption off premises where sold, under Wis. Stat. § 125.25, the fee for which shall be as provided in the Town's Fee Schedule. The fee for a license for less than 12 months shall be prorated as provided under Wis. Stat. § 125.25(4).

(2) Class "B" license for retail sale of fermented malt beverages to be consumed either on the premises where sold or off the premises, under Wis. Stat. §

125.26, the fee for which shall be as provided in the Town's Fee Schedule. The fee for a license for less than twelve (12) months shall be prorated as provided in Wis. Stat. § 125.26(4). Class "B" licenses may be issued at any time for a period of 6 months as provided in Wis. Stat. § 125.26(5).

(3) Temporary Class "B" license for the sale of fermented malt beverages to bona fide clubs, county, or local fair associations, or agricultural societies, churches, lodges, or societies, under Wis. Stat. § 125.26(6), the fee for which shall be as provided in the Town's Fee Schedule.

(4) Wholesaler's license for the sale of fermented malt beverages, under Wis. Stat. § 125.28, the fee for which shall be as provided in the Town's Fee Schedule.

(5) Retail "Class A" license for the sale of intoxicating liquor for consumption off the premises where sold, under Wis. Stat. § 125.51(2), the fee for which shall be as provided in the Town's Fee Schedule. The fee for a license for less than one year shall be determined according to Wis. Stat. § 125.51(9)(a).

(6) Retail "Class B" license for retail sale of intoxicating liquor to be consumed by the glass only on the premises where sold and the sale of intoxicating liquor in the original package or container, in multiples not to exceed four (4) liters at any one time and to be consumed off the premises where sold, and wine for consumption off the premises in the original package or otherwise in any quantity, under Wis. Stat. § 125.31(3)(b), the fee for which shall be as provided in the Town's Fee Schedule. The fee for a license for less than one year shall be determined according to Wis. Stat. § 125.51(9)(a).

(7) Reserve "Class B" license, under Wis. Stat. § 125.51(4), the fee for which shall be as provided in the Town's Fee Schedule for initial issuance, except that the fee for the initial issuance of a reserve "Class B" license to a bona fide club or lodge situated and incorporated in the State for at least six (6) years is the fee established under Section 7.01(E)(6). The annual fee for renewal of a reserve "Class B" license is the fee established under Section 7.01(E)(6).

(8) Retail "Class B" license for a full-service restaurant that has a seating capacity of three hundred (300) or more persons, or a hotel that has fifty (50) or more rooms of sleeping accommodations and that has either an attached restaurant with a seating capacity of one hundred fifty (150) or more persons or a banquet room which will accommodate four hundred (400) or more persons under Wis. Stat. § 125.51(4)(v), the initial fee and annual renewal fees which shall be provided for in the Town's Fee Schedule.

(9) Temporary “Class B” wine license for the sale of wine issued to bona fide clubs, county or local fair associations, or agricultural societies, churches, lodges or societies that have been in existence for at least six (6) months, under Wis. Stat. § 125.51(10), the fee for which shall be as provided in the Town’s Fee Schedule.

(10) Retail “Class C” wine license for the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold, under Wis. Stat. § 125.51(3m), the fee for which shall be as provided in the Town’s Fee Schedule. The fee for a license for less than one (1) year shall be prorated as provided in Wis. Stat. § 125.51(a).

(11) Operator’s license, under Wis. Stat. § 125.17, the fee for which shall be as provided in the Town’s Fee Schedule.

(12) Temporary operator’s license, under Wis. Stat. § 125.17(4), the fee for which shall be as provided in the Town’s Fee Schedule.

(13) Provisional operator's license, under Wis. Stat. § 125.17(5), the fee for which shall be as provided in the Town’s Fee Schedule.

(14) Manager’s License, under Wis. Stat. § 125.18, the fee for which shall be as provided in the Town’s Fee Schedule.

(15) Provisional retail license, under Wis. Stat. § 125.185, the fee for which shall be as provided in the Town’s Fee Schedule.

7.01(F) Application Procedures

All applications for a license authorized under this Section and Ch. 125, Wis. Stat., shall be in writing on forms prescribed and furnished by the Wisconsin Department of Revenue as supplemented and approved by the Town Board. All applications shall be verified under oath as provided by Wis. Stat. § 887.01, and shall contain at least the information required under Wis. Stat. § 125.04(3), and the following information:

(1) Address. Address of the building for which a license is desired and a description of the physical premises, including every room, storage space, or outdoor areas. This description shall include a diagram of the overall dimensions, seating arrangements, seating capacity, bar location and size, and outdoor areas, if applicable, and the diagram shall specifically identify all locations where fermented malt beverages and/or intoxicating liquors are proposed to be sold, served or consumed.

(2) Credit Requirements. For Class “A” or Class “B” fermented malt beverage license applications, whether the applicant is in compliance with the credit restrictions under Wis. Stat. § 125.33(7).

(3) Credit Requirements. For “Class A” or “Class B” intoxicating liquor license applications, whether the applicant is in compliance with the credit restrictions under Wis. Stat. § 125.69(4).

(4) Fences. For temporary Class “B” license applications, the location and size of the fences area to be used for the sale of fermented malt beverages.

(5) Shareholders. For corporation or limited liability company applicants, a statement by its officers showing the names and addresses of the persons who are shareholders together with the amount of shares held by such person or persons.

(6) Qualifications. A statement showing the applicant’s qualifications specified in Wis. Stat. §§ 125.04(5) or (6), as applicable.

7.01(G) Filing of Application

(1) Filing. All applications shall be filed with the Town Clerk. At the time of filing, the applicant shall pay to the Town Clerk the cost of publication of the application and the annual fee for the license as established in Section 7.01(E), unless the application is filed more than thirty (30) days prior to the date that the license is to be issued. All application, except temporary Class “B” license applications under Wis. Stat. § 125.26(6), must be on file with the Town Clerk at least fifteen (15) days before the Town Board may grant or deny the application. All license fees shall be paid on the 30th day prior to the date that the license is to be issued, unless the application is filed less than thirty (30) days prior to the date of issuance of the license.

(2) Amendment of Application. Within ten (10) days of any change in any fact set out in a license application to sell alcohol beverages, a licensee shall file with the Town Clerk a written description of the changed fact.

7.01(H) Publications of Applications

Except for temporary Class “B” licenses issued under Wis. Stat. § 125.26(6), the Town Clerk shall publish in the Town newspaper each application for a Class “A”, Class “B”, “Class A”, or “Class B” license prior to its issuance, in accordance with Wis. Stat. § 125.04(3)(g). The cost of the publication shall be paid by the applicant at the time the application is filed, as determined by Wis. Stat. § 985.08.

7.01(I) Qualifications of Applicants

(1) Qualifications. All applicants applying for licenses under this Section, except applicants for provisional operator's licenses and provisional retail licenses, must meet the qualifications as specified in Wis. Stat. § 125.04(5), for natural persons or for corporations and limited liability corporations, as applicable.

(2) Provisional Operator's License. A provisional operator's license shall be issued to any person who has applied to the Town Board for the issuance of an operator's license and has enrolled in a responsible beverage server training course, as required under Wis. Stat. § 125.17(6), Wis. Stats. A provisional operator's license may not be issued to any person who has previously been denied an operator's license by the Town board. A provisional operator's license shall expire sixty (60) days after its issuance or when an operator's license is issued, whichever is sooner. The Town Clerk may revoke a license issued pursuant to this paragraph if he or she discovers that the provisional operator license holder made a false statement on the application or fails to successfully complete the responsible beverage server training course in which he or she enrolled.

(3) Provisional Retail License. A provisional retail license shall be issued only to any person who has applied for a Class "A", Class "B", "Class A", "Class B", or "Class C" license and has not been previously denied one of those licenses in the prior year.

7.01(J) Inspection of Application and Premises

The Town Clerk shall notify the Board of all license applications. The Board or any representative thereof may inspect or cause to be inspected each application and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances, and laws applicable thereto and the applicant's fitness for the license. A license or renewal of a license provided for in this Section may be denied if the premises or the applicant is found to be in non-compliance.

7.01(K) Qualifications for Licensed Premises

(1) Health and Sanitation Requirements. No license shall be issued for any premises which does not conform to the sanitary, safety, and health requirements of the Wisconsin Department of Commerce pertaining to the buildings and plumbing, to the rules and regulations of the Wisconsin Department of Health and Human Services applicable to the restaurants, and to all such ordinances and regulations adopted by the Town.

(2) Location of Premises

(a) No retail Class “A”, Class “B”, “Class A”, or “Class B” license shall be issued for premises located less than three hundred (300) feet from any established public or parochial school, hospital, or church. Such distance shall be measured by the shortest route along the highway from the closed point of the boundary of such school, church, or hospital to the closest entrance to such premises. This paragraph shall not apply to certain premises as specified in Wis. Stat. § 125.68(3).

(b) No license shall be issued to any person for the purpose of possession, selling or offering for sale any alcohol beverages in any portion of a building consisting of a dwelling, flat, or residential apartment.

7.01(L) Review of Applications

(1) Review. The Town Board shall review all license applications filed in a timely manner. Opportunity to be heard shall be given by the governing body to any person regarding the license application. The Town Board may from time to time adopt guidelines to be used in deciding to grant or deny a license. Upon the approval of the application by the Town Board and payment of the license fee, the Town Clerk shall issue to the applicant a license.

(2) Limited Area License. In reviewing any application for a Class “A”, “Class “B”, or any “Class B” license, the Town Board may, in its discretion, grant the license only for a portion of premises for which the applicant seeks the right to sell, deal, give away or traffic in alcohol beverages. If only a portion of the premises are licensed, the Town shall issue to the licensee, together with the license, a written statement or diagram showing the portion of the premises licensed.

(3) Denial. If the Town Board denies a new license, the applicant shall be notified in writing by registered mail or personal service of the reasons for the denial.

7.01(M) Regulation of Licenses and Licensed Premises

(1) Posting Licenses. Licenses issued under this Section shall be posted and framed as provided by Wis. Stat. § 125.04(10). Failure to post a license as required therein shall be presumption of operating without a license.

(2) Gambling and Disorderly Conduct. Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous, or indecent conduct or gambling shall be allowed at any time or on any premises. However, a licensed premises may be designated an agent of the Wisconsin State Lottery.

(3) Safety and Sanitation Requirements. Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for which used.

(4) Consent to Entry. Every applicant procuring a license thereby consents to the entry of police or other duly authorized representative of the Town at all reasonable hours to inspect the licensed premises.

(5) Quotas. The number of persons and places that may be granted retail “Class B” intoxicating liquor licenses in the town is limited as provided in Wis. Stat. § 125.51(4).

(6) Licensed Operator on Premises

(a) Except as provided by Wis. Stat. §§ 125.32(3)(b) and 125.07(3)(a)(10), no premises operating under a Class “A”, Class “B”, “Class A”, or any “Class B” license may be open for business unless there is upon the premises the licensee, the agent named in the license if the licensee is a corporation or limited liability company, or some person who has an operator’s license and who is responsible for the acts of all persons serving any fermented malt beverages to customers.

(b) For purposes of this paragraph, any person holding a manager’s license or any member of the licensee’s immediate family who has attained the age of eighteen (18) shall be considered the holder of an operator’s license. No person, including a member of the licensee’s immediate family, other than the licensee or agent may serve fermented malt beverages in any place operated under a Class “A” or Class “B” license unless he or she has an operator’s license or is at least eighteen (18) years of age and is under the immediate supervision of the licensee, agent, or person holding an operator’s license, who is on the premises at the time of the service.

(7) Closing Hours. No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages:

(a) If a Class “A” license, between 12:00 a.m. and 8:00 a.m. for the sale of fermented malt beverages.

(b) If a “Class A” license, between 9:00 p.m. and 8:00 a.m. for the sale of intoxicating liquor.

(c) If a Class “B”, “Class B”, or “Class C” license, between 2:00 a.m. and 6:00 a.m., except as otherwise provided in this paragraph. On Saturday and Sunday, the closing hours shall be between 2:30 a.m. and 6:00 a.m. On January 1, the premises are not required to close. Between 12 midnight and 6:00 a.m., no person shall sell fermented malt beverages on Class “B” licensed premises in an original unopened package, container, or bottle or for consumption away from the premises.

(d) Hotels and restaurants whose principal business is furnishing food, drinks, or lodging to patrons, bowling centers, golf courses, and other businesses specified in Wis. Stat. § 125.68(4)(c)4, may remain open for the conduct of their regular business but may not sell intoxicating liquors or fermented malt beverages during prohibited hours specified above.

(8) Employment of Minors. No retail “Class B” or Class “B” licensee shall employ any person under eighteen (18) years of age to serve, sell, dispense, or give away any alcoholic beverage.

(9) Clubs. No club shall sell or give away any intoxicating liquors except to bona fide members or their guests.

(10) Agents of Corporations of Limited Liability Companies. The cancellation of the appointment of an agent appointed pursuant to Wis. Stat. § 125.04(6), and the appointment of a successor agent shall be performed in accordance with Wis. Stat. § 125.04(6). The corporation or limited liability company holding the license shall immediately notify the Town Clerk in writing of the appointment of a successor agent and the reason for the cancellation and new appointment. The license holder shall, following the approval of each successor agent or another qualified agent, pay to the Town a fee as provided in the Town’s Fee Schedule. If an agent appointed under Wis. Stat. § 125.04(6), resigns, he or she shall notify in writing the corporation or Limited Liability Company and the Town Clerk within forty eight (48) hours of the resignation.

(11) Stock Transfers. It shall be the duty of each applicant and licensee to file with the Town Clerk a statement of transfers of stock within forty eight (48) hours after such stock transfer.

7.01(N) Regulation of Temporary Class “B” Licenses

It shall be unlawful for any person or organization on a temporary basis to sell or offer for sale any alcohol beverage in the Town unless the Town Board has issued a Temporary Class “B” fermented malt beverage license pursuant to this Section. Temporary Class “B” license holders shall comply with the following requirements:

(1) Underage Persons. Except as provided by Wis. Stat. § 125.07, no underage person, as defined by Wis. Stat. § 125.02, shall be allowed to assist in the sale of fermented malt beverages at any point of sale, nor shall he or she be permitted to loiter or linger in the area of any point of sale of fermented malt beverages.

(2) Posting of Signs and License. All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any underage person and otherwise only when proper identification is shown.

(3) Presence of Licensed Operator Required On-Site. A licensed operator shall be stationed at all points of sale at all times.

(4) Fencing

(a) The Town Board may require that a licensee install a double fence around the main point of sale to control ingress and egress and continually station a licensed operator, security guard, or other person of legal drinking age at the entrance for the purpose of checking age identification. Where possible, there shall be only one point of ingress or egress. When required, the double fence shall be a minimum of four (4) feet high and a minimum of six (6) feet between fences. A single eight-(8) foot chain link fence may be used in lieu of a double fence when required.

(b) For indoor events, the structure used shall provide for suitable exits and facilities and be of sufficient size to accommodate anticipated attendance.

(c) If the event is to be located on Town park property, the licensee shall work closely with Town officials in locating and setting up the fence area. If the event is to be located on Town-owned property other than park property, the licensee shall work closely with the Columbia County Sheriff's Department in locating and setting up the fence area.

(5) Permitted Cups and Cans. Fermented malt beverages sold outdoors shall be sold and served only in foam or plastic cups or cans.

(6) Insurance. The applicant may be required to indemnify, defend, and hold harmless the Town and its employees and agents against all claims and damages caused by or resulting from the activities for which the license is granted. The applicant may be required to file a certificate of comprehensive general liability insurance with the Town Clerk. The applicant may be required to furnish a performance bond prior to the approval of the license application.

(7) Waiver. The Town Board may waive or modify any or all of these requirements as it, in its sole discretion, deems appropriate.

7.01(O) Violations by Agents and Employees

A violation of this Section by an authorized agent or employee shall constitute a violation of the license. Whenever any licensee under this Section shall violate any portion of this Section, proceedings for the suspensions or revocation of the license may be instituted in the manner prescribed by this Section.

7.01(P) Transfer of Licenses

(1) From Place to Place. Every alcohol beverage license issued by the Town Board may be transferred to another place or premises within the Town. Transfers shall be made by the Town Board upon application on forms provided by the Wisconsin Department of Revenue and payment of a fee as provided in the Town's Fee Schedule. Proceedings considering such a transfer shall be conducted in the same manner and form as the original application. No retail licensee is entitled to more than one (1) transfer during the license year. This paragraph does not apply to a reserve "Class B" license for certain hotels and restaurants under Section 5(h) under Wis. Stat. § 125.04(12)(a).

(2) From Person to Person. Licenses to sell alcohol beverages may be transferred to another person only under the terms and conditions as provided by Wis. Stat. § 125.04(12)(b).

7.01(Q) Revocations, Suspension, or Refusal to Renew

(1) Grounds. A license issued under this Section may be suspended, revoked, or not renewed by the Town Board for one or more of the grounds specified in Wis. Stat. § 125.12(2)(ag). In addition, the Town shall not issue or renew any such license for any premises for which taxes, assessments or other claims or fees of the Town are delinquent and unpaid, or for any person who is delinquent in payment of any taxes, assessments or other claims or fees owed the Town, or in payment of any forfeiture resulting from a violation of the Town's Code of Ordinances.

(2) Procedure. A license may be revoked, suspended, or not renewed pursuant to the procedure in Wis. Stat. § 125.12(2).

(3) Effect of Revocation of License. When a license is revoked under this Section, the revocation shall be recorded by the Town Clerk and shall have the effect specified in Wis. Stat. § 125.12(2)(c). No part of the fee for any license so revoked may be refunded.

7.01(R) Penalty

Any person violating any provision of this Section or any condition included on a license application or on the license itself or who provides any false or inaccurate information on a written application shall be subject to a penalty as provided in Section 3.02 of this Code. Each day of continuing violation shall constitute a separate offense. Nothing in this Section shall in any way diminish the authority of the Town Board to suspend, revoke, or refuse to renew any license issued pursuant to this Section.